

occupied by Mrs. Joice; and to sell the same to Mrs. Joice at a price named.

Held, as to by-law 145, upon the contradictory affidavits set out in the report, that the objection for want of the necessary notices before passing such by-law was not sustained, there being also the fact that the applicants were heard several times in opposition to the by-law, but never raised this objection.

2. As to both by-laws, that it was not objectionable to provide for selling, as well as for closing up the allowance.

3. Nor as to by-law 145, that it provided for closing and selling the allowance by public auction, without providing for the rights of the owners of adjoining lands, for it was shewn that such owner became the purchaser.

Semb'e, that it might be sufficient to offer the old allowance at the auction to the owner of the adjoining land, and on his refusal to proceed with the sale.

As to by-law 146, it was objected, that it provided for the sale to Mrs. Joice, while it shewed on the face of it that the adjoining land was owned by others. It appeared that M. C. had died intestate, leaving children under age, and that Mrs. Joice was his widow. M. C. was not shewn to have been the owner, except by the statement in the by-law, and Mrs. Joice swore that she had owned the land for five years. *Held*, that this objection failed. *Held*, also, that the road closed up by this by-law was sufficiently described. It was objected also, that the notice of the intended passing of this by-law described it as a by-law for closing up and selling the original allowance between lots 32 and 33, while the by-law as passed was to close up only a small portion of it. *Held*, no objection.—*In re Baker and Kennedy and The Corporation of Tp. of Saltfleet*, 31 U. C. R. 386.

INSOLVENCY—SCHEDULE OF DEBTS.

To an action of covenant in a mortgage to pay money, defendant pleaded that, becoming insolvent after execution of the mortgage, he made an assignment; that plaintiff's claim was known as that of the "Wood Estate," and was so described in schedule submitted to the assignee and creditors; that plaintiff resided abroad, and was represented in Canada by M., who had notice of the appointment of said assignee; that on the expiry of a year defendant obtained his discharge absolutely, by which he was discharged from plaintiff's claim.

Replication, that the order for discharge was made before 1st September, 1869, and that plaintiff's name was not mentioned as creditor in any schedule, and his claim was never proved against defendant's estate.

Rejoinder, that plaintiff's claim was known as that of the "Wood Estate" (plaintiff representing and being entitled to said estate) and was so entered in the schedule filed by defendant with assignee, and that plaintiff was represented by M., who had notice, &c.

Held, on demurrer, rejoinder good.—*Farrell v. O'Neill*, 22 U. C. C. P. 31.

HIGHWAY.

By 9 Vic. ch. 38, sec. 23, the road in question, for an injury resulting from the disrepair of a portion of which, passing through defendants' incorporated limits, they were sought to be made liable, was placed under the control and management of the Board of Works, and by 13 & 14 Vic. ch. 15, Government had power to divest the Board of Works of such control by proclamation in the "Provincial Gazette," whereupon the road again came under the control and management of the local municipalities in which it was situate. In 1851 the County Council by by-law assumed the road under the Municipal Corporation Act, and kept it in repair until 1838, when they repealed the by-law. From that time down to the occurrence of the accident which caused the injury complained of, a period of twelve years, the defendants undertook the duty of repairing the road which was within their limits.

Held, that it was to be presumed that the board of works had been in due form of law divested of all control and management of the road, and that the piece in question had properly passed under the jurisdiction of the defendants, and that they were bound to keep it in repair.—*Irwin v. The Corporation of Bradford*, 22 U. C. C. P. 18.

SIMPLE CONTRACTS & AFFAIRS OF EVERY DAY LIFE.

NOTES OF NEW DECISIONS AND LEADING CASES

SALE OF GOODS.—STATUTE OF FRAUDS.

Plaintiff entered into a verbal agreement with defendant for the purchase of a piano at a certain price, and upon certain terms of payment, defendant agreeing to guarantee that the instrument was then free from defect and should so continue for five years, and that in case of its becoming defective within that period, defendant would, upon plaintiff's returning it within that time, refund the purchase money:

Held reversing the judgment of the County Court, a contract not to be performed within a year, and therefore void under the Statute of Frauds, as not reduced to writing.—*Nicholls v. Nordheimer*, 22 U. C. C. P. 48.